

NEBRASKA WATER POLICY TASK FORCE

Executive Committee Meeting Minutes

Cornhusker Hotel

Lincoln, NE

September 7, 2004

Attendees:

Executive Committee Members:

Ron Bishop Gary Mader Jay Rempe Gloria Erickson Dave Sands Robert Ambrosek Tom Schwarz Lumir Jedlicka Dave Cookson Roger Patterson Senator Elaine Stuhr Senator Ed Schrock

Other Task Force Members:

Dick Mercer Clint Johannes Nelson Trambley Clayton Lukow John Turnbull Lyle Heinrichs Lorrie Benson Al Schmidt Jim Nelson Claude Cappel
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Other Attendees:

Jack Greas Gary Meyer Bryan Lubek Ann Diers J. F. Hoffman

Dean Edson Justin Lavene Mike Clements Dave Bartels Steve Gaul Jim Cook
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Facilitators: Ann Bleed and Jody Gittins

Call to Order

Ann Bleed called the meeting to order at 11:00 a.m. She noted that a number of materials were available at the entrance to the room, including:

- ◆ Copies of the recodified Groundwater Management and Protection Act reflecting the changes from LB 962,
- ◆ Revised copies of the task force membership roster,
- ◆ Copies of a potential LB 962 Budget,

- ◆ Copies of the Operating Agreements for the Water Policy Task Force, and
- ◆ Copies of a Revised LB 962 Summary Sheet.

Bleed asked whether the group wished to continue with the previous operating rules and asked if any problems with the rules needed to be discussed. No one indicated any objections to continuing with the current rules. Bleed noted that four previous task force members had now left the group: Cecelia Grevson, Pete Rubin, Kathy Wittler, and Robert Hawthorne. The Governor's office is in the process of making replacements.

Discussion and Suggestions on Draft LB 962 Implementation Budget

Roger Patterson reported that the Task Force had recommended a \$4.7 million budget for LB 962 implementation on an annual basis and that a figure of \$2.5 million had actually been allotted in the first year. He indicated DNR was working on a budget for the next two years and would try for \$4.7 million per year until told differently.

Patterson said that the budget included funds for three new DNR positions: a lawyer, a hydrologist, and a water administrator; of which only the water administrator had been hired to date. He also indicated that DNR was working with the University of Nebraska to reach agreements for University assistance on a variety of topics including water conservation education, putting existing data into an easily accessible electronic format, and examining relevant economic factors for fully-appropriated delineations. He said that Congressman Osborne had been encouraging the University to work on more field level data that can be used on the ground in the planning process. Patterson also noted that funds were included for a Blue Basin study for local specialized studies, studies for joint management plans, and incentives/payments.

Patterson said that the draft budget allocated a good part of the initial incentives funding to the Republican Basin. He noted that some of the incentive funds may be used to help leverage outside federal assistance. One of the areas incentive funds may also be used is for water meters in the Platte Basin. Patterson noted that Executive Committee member Don Kraus had indicated he would like to see additional funding for incentives in the Platte Basin.

Nelson Trambley asked how the funding for economic studies at the University would be used. Patterson indicated it was a placeholder for future studies. Patterson said that the extra funding that would be sought in future budgets would be for incentives and that certain parts of the remainder of the budget would be decreasing. He noted that leveraging federal funds such as the Conservation Reserve Enhancement Program would be key since such programs may require as little as a 20% match.

Dave Sands asked what the costs of the legal case against Wyoming had been. Patterson responded those costs had been \$500,000 a month at their peak and had totaled \$24 million. Cookson said that \$11 million had been spent on Nebraska versus Kansas in 3 years.

Jay Rempe reported that the Nebraska Policy Institute was doing a study of the Economic Impact of Irrigation through Charles Lamphere and Roy Fredrick. He said the Farm Bureau had put \$75,000 into the effort.

Tom Schwarz commented on the difficulties of being able to afford solutions. Bleed asked whether the group wanted to appoint a pro-active subcommittee on issues related to securing funding. Lukow said he thought a subcommittee would be helpful. Sands asked whether the group would

examine the funding issue again. Schrock said he felt that was a dead issue and Rempe agreed. Rempe said that he felt conditions for securing funding were better this year.

Discussion of Work Ahead

Ann Bleed asked what additional changes were needed in order to further implement the goals and processes outlined in the law. Gary Mader responded that from the viewpoint of municipalities, he didn't have many concerns at this juncture, but that the devil is in the details. He said that if the NRDs and DNR establish a program that is workable, functional, and fair, they will go along. He indicated that it is premature to judge before we find out how the programs will work.

Ron Bishop identified a number of measures that had been discussed as potential improvements/modifications. These included:

- 1) Expanding well permit authorities to allow NRDs to require additional information on high-volume requests
- 2) Clarifying authority to assess water use fees. (The Upper Republican NRD has a resolution supporting authority for NRDs on this.)
- 3) Granting authorities for fees for transfer permits
- 4) Clarifying rules and regulations for developing integrated management plans – specifically what NRDs need for rules and regulations

Bishop indicated that the concept of being pro-active should not just apply to gathering information on whether a basin is fully- or over-appropriated, but to gathering information ahead of time to make the right decisions. He noted they had spent \$7 million doing that on the Platte, and there would be no problem spending every dollar that's been discussed.

Dave Sands said he would like to see a way to modify the instream flow law and help streams get protection. Schrock said additional explanation was needed on why regulations are needed when the water table is not down. He said the public doesn't understand. Laurie Benson suggested that additional public education would be helpful.

Schwarz and Cookson suggested that the group resurrect the "parking lot" issues they had previously identified. Patterson noted that Jim Cook was also maintaining a list of very minor "nits and nats" that should be run through the task force.

General Issues Concerns

Schrock said that Nelson Trambley had indicated that DNR should not have the power to rule on whether basins were fully or overappropriated. Trambley stated that in the Lower Republican NRD they have no attorney and are trying to negotiate with DNR. There is a fear the LB 962 has taken power away from the NRDs and given it to the state. The Lower Republican NRD board had, with no opposition, passed a resolution opposing LB 962. However, he feared they don't have much power over the state.

Ron Bishop asked Trambley whether he NRD Board had any specifics on how LB 962 should be changed. Trambley indicated that although he didn't bring a list, there were problems with the five-person board. Bishop later suggested that if the Lower Republican NRD could provide a list of their issues, it would be helpful.

Senator Schrock indicated that prior to initiation of the process that resulted in LB 962 he had been hearing concerns about water and the direction the state was headed. He said he was afraid of what the courts would do in the Republican Basin if they didn't comply. He indicated his belief that the negotiated deal was better than what Nebraska would have received from the courts. Schrock noted that in the Republican Basin it was being said Nebraska handed Kansas their case on a plate when LB 108 was passed. He asked Jim Cook if this was the case. Cook said that LB 108 had done nothing to impact the Kansas case.

Selection of Priority Issues

Gittins posted a list of future issues to address that had been discussed by the committee and over lunch. Each committee member was given stickers to select their priority issues. Based on the number of stickers received, the issues in order of priority were as follows:

- 1) Funding
- 2) Greater funding for studies prior to DNR determination of over-appropriated or fully-appropriated
- 3) More public education, including explanation of the impacts that can occur in a basin when the water table is not declining.
- 4) Clarification of DNR authority
 - Fees for water use
 - Requests for additional information
 - Clarification of NRD authority for charging fees for leasing
- 5) (tie) More monetary incentives for the Platte River Basin
(tie) Instream Flow Law Examination
- 6) (tie) Examine sustainability of the Republican River Basin
(tie) Water Banking

Public Comment and Ensuing Discussion by Committee

Gary Meyer, a banker from Red Cloud, asked if the task force was responsible for economic impacts and whether that will be part of the task force work. Ann Bleed replied that the basic charge of the task force was to review existing laws and determine if charges are needed and that was now continuing. She said that if something was needed in the law concerning the economic viability of small communities, that would be appropriate. Meyer indicated that should be a consideration. Lukow noted that subcommittees had talked time and again about the impact to smaller communities. Schwarz reported that there had been talk of buying the Bostwick Irrigations district through water transfers, but that if transfers occur, taxes must continue to be paid. Sands said it was a major decision not to allow wholesale water marketing, because they had seen what had happened out west.

Presentation on Rules and Regulations for LB 962 Implementation

Ann Diers gave a brief presentation on the formulation of rules and regulations for the implementation of LB 962. She noted that the Department would like the affected members of the public to be involved in the rule making process. Ann's comments will be provided as an attachment to the file copy of these minutes.

Presentation on the Status of LB 962 Implementation

Ann Bleed gave a lunchtime presentation on the status of LB 962 Implementation. That presentation was made via power point slides, and paper copies of these slides will be appended to the file copy of these minutes and will be available upon request.

Next Meeting of Full Task Force

The next meeting of the Full Task Force was tentatively set for Tuesday, November 30, 2004, from 9:30 a.m. to 4:00 p.m. in Kearney. Suggested agenda items included: The issues list, the "Parking Lot List" and if possible, a list of Lower Republican Basin concerns. DNR was charged with providing the "Parking Lot List" and Bishop suggested that Trambley could try to assemble a list of Lower Republican NRD concerns. It was also suggested that Ron Bishop assemble a group to discuss clarification of NRD authorities as mentioned in item 4 of the issues list.

Dick Mercer suggested that as work continued, this group keep in mind that LB 962 is only weeks old and that they shouldn't get too excited about rewriting it before they see it work.